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Protecting human rights and fundamental freedoms while countering terrorism

Report of the Secretary-General*

Summary

The report provides an overview of United Nations action in implementation of resolution 58/187. It notes that the Office of the High Commissioner for Human Rights has maintained its dialogue with the Counter-Terrorism Committee (CTC) of the Security Council and continues to recommend that CTC consider the human rights impact of counter-terrorism measures. It reflects the view of the High Commissioner that, over the long term, a commitment to uphold respect for human rights and rule of law will be one of the keys to success in countering terrorism. The High Commissioner, while stressing that States have not only the right, but also the duty to secure the right to life and other rights through effective counter-terrorism measures, has highlighted the central role of the judiciary in reviewing such measures taken by Governments.

The United Nations human rights special procedures and treaty bodies continue to pay close attention to the protection of human rights and fundamental freedoms while countering terrorism, within their respective mandates and resources. In a joint statement issued on 25 June 2004, the special rapporteurs and representatives, independent experts and chairpersons of the working groups of the special procedures of the Commission on Human Rights strongly voiced their unequivocal condemnation of terrorism in all its forms. At the same time, they reaffirmed "their individual and collective determination to monitor, each within the framework of his or her mandate, those policies, legislation, measures and practices developed by States in the name of the fight against terrorism, with a view to ascertaining that they

* This report was delayed in submission for the inclusion of additional information.

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are consistent with international human rights standards". Several of the human rights treaty bodies have also continued to address the protection of human rights while countering terrorism.

The report notes the appointment by the Commission on Human Rights in July 2004 of an independent expert, for a period of one year, to assist the High Commissioner in this area and to submit a report, through the High Commissioner, to the Commission at its sixty-first session on ways and means of strengthening the promotion and protection of human rights and fundamental freedoms while countering terrorism. It expresses the hope that this will lead to a more integrated and coherent understanding of the issue.

I. Introduction

1. The General Assembly, in resolution 58/187, reaffirmed that States must ensure that any measure taken to combat terrorism complies with their obligations under international law, in particular international human rights, refugee and humanitarian law, and called upon States to raise awareness about the importance of these obligations among national authorities involved in combating terrorism. It welcomed the ongoing dialogue established in the context of the fight against terrorism between the Security Council and its Counter-Terrorism Committee (CTC) and relevant bodies for the promotion and protection of human rights, and encouraged the Security Council and CTC to continue to develop the cooperation with relevant human rights bodies, in particular with the Office of the High Commissioner for Human Rights (OHCHR).

2. The Assembly requested all relevant special procedures and mechanisms of the Commission on Human Rights, as well as the United Nations human rights treaty bodies, to consider, within their mandates, the protection of human rights and fundamental freedoms in the context of measures to combat terrorism and to coordinate their efforts, as appropriate, in order to promote a consistent approach on this subject. It encouraged States, while countering terrorism, to take into account relevant United Nations resolutions and decisions on human rights, and to consider the recommendations of the special procedures and mechanisms of the Commission on Human Rights and the relevant comments and views of the human rights treaty bodies.

3. The General Assembly welcomed the publication by the Office of the High Commissioner for Human Rights (OHCHR) of the "Digest of Jurisprudence of the United Nations and Regional Organizations on the Protection of Human Rights while Countering Terrorism" and requested the High Commissioner to update and publish it periodically. It further requested the High Commissioner, making use of existing mechanisms, to continue: (a) to examine the question of the protection of human rights and fundamental freedoms while countering terrorism, taking into account reliable information from all sources; (b) to make general recommendations concerning the obligation of States to promote and protect human rights and fundamental freedoms while taking actions to counter terrorism; and (c) to provide assistance and advice to States, upon their request, on the protection of human rights and fundamental freedoms while countering terrorism, as well as to relevant United Nations bodies.

4. The Assembly requested the High Commissioner, taking into account the views of States, to submit a study to the General Assembly on the extent to which the human rights special procedures and treaty monitoring bodies are able, within their existing mandates, to address the compatibility of national counter-terrorism measures with international human rights obligations in their work. The study is submitted separately (see A/59/__). Finally, the Assembly requested the Secretary-General to submit a report on the implementation of the resolution to the Commission on Human Rights at its sixtieth session and to the Assembly at its fifty-ninth session. The present document is the report of the Secretary-General.

5. The Commission on Human Rights, in resolution 2004/87, in addition to reaffirming the provisions of Assembly resolution 58/187, decided to designate, from within existing resources, for a period of one year, an independent expert to

assist the High Commissioner in the fulfilment of the mandate provided for in the resolution and, taking fully into account the study requested in resolution 58/187, as well as the discussions in the Assembly and the views of States thereon, to submit a report, through the High Commissioner, to the Commission at its sixty-first session on ways and means of strengthening the promotion and protection of human rights and fundamental freedoms while countering terrorism. In July 2004, the Chairman of the Commission on Human Rights appointed Professor Robert Goldman (United States of America) as the independent expert pursuant to resolution 2004/87.

II. The Security Council's Counter-Terrorism Committee

6. OHCHR has continued its dialogue with CTC, including through meetings and exchanges of information between staff. OHCHR submits regular updates to the Chair of CTC on relevant conclusions and observations of the United Nations human rights treaty bodies and special procedures. It participated in the follow-up conference to the CTC Special Meeting with Regional Organizations, hosted by the Organization for Security and Cooperation in Europe (OSCE) in cooperation with the United Nations Office on Drugs and Crime (UNODC) in Vienna in March 2004, as well as a meeting on developing an action agenda for the CTC, hosted by the Ministry for Foreign Affairs of Denmark and organized by the Fourth Freedom Forum and the Joan B. Kroc Institute for International Peace Studies in Copenhagen in March 2004.

7. OHCHR, a number of States (including members of the Security Council), the United Nations Human Rights Committee and non-governmental organizations (NGOs) have urged CTC to consider the human rights impact of counter-terrorism measures in its review of State action. As part of the revitalization of CTC, proposed by the Committee in its report (S/2004/124, annex) and approved by the Security Council in resolution 1535 (2004) of 26 March 2004, CTC is to "liaise with the Office of the United Nations High Commissioner for Human Rights and other human rights organizations in matters related to counter-terrorism" (ibid., para. 16 (c)). The High Commissioner for Human Rights has initiated discussion with the new Executive Director of the CTC Executive Directorate (CTED), Javier Rupérez, on ways to implement the liaison anticipated in the Committee's revitalization. As a first step, CTED advised OHCHR in September 2004 that it is the Executive Director's intention to include among his staff an expert on human rights, humanitarian law and refugee law, including for the purpose of liaising with OHCHR and other human rights organizations.

III. Office of the United Nations High Commissioner for Human Rights

8. The Secretary-General has consistently condemned all acts of terrorism. At the same time, he has systematically appealed for States to ensure that counter-terrorism measures are consistent with human rights obligations. As he recently reiterated, "Terrorism strikes at the very heart of everything the United Nations stands for. It is a global threat to democracy, the rule of law, human rights and stability, and therefore requires a global response. The United Nations has an indispensable role to play in providing the legal framework within which the international campaign

against terrorism can unfold ... As we join forces against terrorism, it is imperative that all of us work to uphold and protect the dignity of individuals and their fundamental freedoms, as well as democratic practices and the rule of law".[1]

9. In an address entitled "Security under the rule of law", delivered to the Biennial Conference of the International Commission of Jurists (ICJ) in Berlin on 27 August 2004, the High Commissioner for Human Rights, Louise Arbour, stated her view that over the long term, "a commitment to uphold respect for human rights and rule of law will be one of the keys to success in countering terrorism — not an impediment blocking our way".[2] The High Commissioner surveyed recent court rulings and other legal developments related to the protection of human rights while countering terrorism. While stressing that States have not only the right, but also the duty to secure the right to life and other human rights through effective counter-terrorism measures, she also highlighted the central role of the judiciary in reviewing such measures taken by Governments. She said, "Put bluntly, the judiciary should not surrender its sober, long-term, principled analysis of issues to a call by the executive for extraordinary measures grounded in information that cannot be shared, to achieve results that cannot be measured".

10. In her speech, the High Commissioner said that respect for human rights and the rule of law in action to counter terrorism actually works to improve human security. She recalled that international human rights law makes ample provision for effective counter-terrorism action, even in the most dire of circumstances. She said, "Article 4 of the International Covenant on Civil and Political Rights was crafted precisely to afford States the leeway they would need to deal with truly exceptional situations while remaining within a legal framework. Its provisions are for exceptional situations only, namely, those in which 'the life of the nation' is threatened. In such situations a State may take emergency measures, provided they are limited to the extent strictly required by the exigencies of the situation, are not inconsistent with the State's other international obligations, and do not discriminate on specified grounds. Certain rights are never subject to derogation, regardless of the nature of the emergency". The High Commissioner reiterated the relevance of the Human Rights Committee's general comment No. 29 on states of emergency, including its emphasis on the importance of remedies for violations of provisions of the International Covenant on Civil and Political Rights (ICCPR).[3]

11. As is made clear by provisions of ICCPR and regional human rights instruments, in the exceptional circumstances where it is permitted to limit some rights for legitimate and defined purposes other than emergencies, the principles of necessity and proportionality must still be applied. Measures taken must be appropriate and the least intrusive possible to achieve their objective. The discretion granted to certain authorities to act must not be unfettered. The principle of non-discrimination must always be respected and special effort made to safeguard the rights of vulnerable groups. Counter-terrorism measures targeting specific ethnic or religious groups are contrary to human rights and would carry the additional risk of an upsurge of discrimination and racism.[4]

12. OHCHR initiated a project in 2003 which provides support to the High Commissioner and the United Nations human rights mechanisms by examining human rights issues related to counter-terrorism measures and taking other action as mandated by the General Assembly and the Commission on Human Rights. The "Digest of Jurisprudence", published in 2003, has been distributed widely, including

to the national affiliates of the International Bar Association and to participants at the United Nations Educational, Scientific and Cultural Organization (UNESCO) World Forum on Human Rights, held at Nantes, France, in May 2004. Opportunities for partnerships with other United Nations bodies and regional organizations in providing technical assistance and advice to States on the issue are currently being explored. A partnership has been established with OSCE to develop relevant educational materials. The Office has also begun providing support to the newly appointed independent expert of the Commission on Human Rights on the protection of human rights while countering terrorism.

13. In September 2004, OHCHR helped to organize and participated in the Seventh International Conference of National Human Rights Institutions, held in Seoul, which had as its theme "Upholding human rights during conflict and while countering terrorism". At the UNESCO World Forum on Human Rights, the Office organized a panel discussion with representatives of national human rights institutions on the protection of international human rights while countering terrorism.

IV. Special procedures and treaty bodies

14. The United Nations human rights special procedures and treaty bodies continue to pay close attention to the protection of human rights and fundamental freedoms while countering terrorism, within their respective mandates and resources. In a joint statement issued on 25 June 2004 (E/CN.4/2005/5, annex), the special rapporteurs and representatives, independent experts and chairpersons of the working groups of the special procedures reiterated their concerns expressed a year earlier regarding the serious impact that certain counter-terrorism measures may have on the enjoyment of human rights and fundamental freedoms. The statement continued, "[The special procedures] once again strongly voice their unequivocal condemnation of terrorism in all its forms. At the same time, they reaffirm their individual and collective determination to monitor, each within the framework of his or her mandate, those policies, legislation, measures and practices developed by States in the name of the fight against terrorism, with a view to ascertaining that they are consistent with international human rights standards".

15. Referring to "a number of recent developments that have seriously alarmed the international community with regard to the status, conditions of detention and treatment of prisoners in specific places of detention", the special procedure mandate-holders expressed their unanimous desire that the Special Rapporteurs on the independence of judges and lawyers, on the question of torture and on the right of everyone to the enjoyment of the highest attainable standard of physical and mental health, as well as the Chairperson of the Working Group on Arbitrary Detention, "visit, together and at the earliest possible date, those persons arrested, detained or tried on grounds of alleged terrorism or other violations, in Iraq, Afghanistan, the Guantánamo Bay military base and elsewhere, with a view to ascertaining, each within the confines of their mandate, that international human rights standards are properly upheld with regard to these persons, and also to make themselves available to the authorities concerned for consultation and advice on all issues within their areas of competence". They further expressed the wish that they would be able to present the outcome of their approaches and visits to the Commission on Human Rights at its sixty-first session.

16. Several of the special procedures have continued to consider issues related to the protection of human rights and fundamental freedoms while countering terrorism in the course of their work and in their reports to the General Assembly and the Commission on Human Rights. In reports to the sixtieth session of the Commission, aspects of counter-terrorism measures were addressed by the Special Rapporteur on contemporary forms of racism, racial discrimination, xenophobia and related intolerance (E/CN.4/2004/18, E/CN.4/2004/19), the Special Rapporteur on the question of torture (E/CN.4/2004/56 and Add.1-3), the Special Rapporteur on extrajudicial, summary or arbitrary executions (E/CN.4/2004/7), the Special Rapporteur on the independence of judges and lawyers (E/CN.4/2004/60), the Special Rapporteur on the right to freedom of opinion and expression (E/CN.4/2004/62), the Special Rapporteur on freedom of religion or belief (E/CN.4/2004/63), the Special Rapporteur on violence against women (E/CN.4/2004/66), the Special Rapporteur on the situation of human rights and fundamental freedoms of indigenous people (E/CN.4/2004/80 and Add.3), the Special Rapporteur on the use of mercenaries (E/CN.4/2004/15), the Special Representative of the Secretary-General on the situation of human rights defenders (E/CN.4/2004/94), the Working Group on Arbitrary Detention (E/CN.4/2004/3), and the Working Group on Enforced or Involuntary Disappearances (E/CN.4/2004/58).

17. Several of the human rights treaty bodies have continued to address the protection of human rights while countering terrorism in their review of States parties' reports under the respective treaties. The Human Rights Committee now routinely considers the compatibility of counter-terrorism measures with ICCPR obligations in reviewing State party reports and has addressed the issue in several recent concluding observations. For example, it has again drawn the attention of States parties to the issue of the legal definition of terrorism in national legislation and the obligation to respect the principle of legality.[5] The Committee has also expressed concern over the possible impact of counter-terrorism measures on the right to freedom from discrimination,[6] the right to a legal remedy and protection from refoulement,[7] and the rights to personal liberty and security, due process, and privacy.[8]

18. The Committee against Torture,[9] the Committee on the Elimination of Racial Discrimination[10] and the Committee on the Rights of the Child[11] have also recently addressed aspects of the protection of human rights while countering terrorism.

V. Conclusions and recommendations

19. **The continuing threat of terrorism as well as the importance of ensuring respect for human rights while countering terrorism remain matters of major concern worldwide. In a reflection of this, the United Nations special procedures again made it the theme of a joint statement issued at their annual meeting, held in Geneva on 25 June 2004. While strongly voicing their unequivocal condemnation of terrorism in all its forms, they reaffirmed their determination to monitor, each within the framework of his or her mandate, those policies, legislation, measures and practices developed by States in the name of the fight against terrorism, with a view to ascertaining that they are consistent with international human rights standards. A number of recent international conferences have considered the subjects of terrorism and counter-terrorism in depth.[12] Calls by international bodies, including the**

Security Council, the General Assembly and the Commission on Human Rights, as well as regional organizations, for counter-terrorism measures to conform to international law, in particular international human rights, refugee and humanitarian law, continue to be highly relevant.

20. The United Nations human rights mechanisms and treaty bodies, as well as the High Commissioner for Human Rights, have provided additional clarification of the international human rights foundation on which counter-terrorism action must be based. This includes full respect for the principles of necessity and proportionality at all times, for the non-derogability of certain rights even in time of national emergency, and for the role of the courts and national human rights institutions in ensuring the compatibility of national counter-terrorism measures with national and international human rights obligations.

21. OHCHR is continuing its dialogue with the Security Council's Counter-Terrorism Committee with the aim of identifying ways to deepen cooperation. The provision of the CTC revitalization plan calling for liaison between CTC, OHCHR and other human rights organizations in matters related to counter-terrorism requires further elaboration.

22. The United Nations human rights special procedures and treaty bodies remain vigilant concerning the protection of human rights while countering terrorism, and several of them continue to address the issue regularly within the scope of their mandates. It may be hoped that the appointment in July 2004 of an independent expert for a period of one year to assist the High Commissioner in this area and to submit a report, through the High Commissioner, to the Commission on Human Rights at its sixty-first session on ways and means of strengthening the promotion and protection of human rights and fundamental freedoms while countering terrorism will lead to a more integrated and coherent understanding of this important issue.

Notes

[1] Message of the Secretary-General to a meeting of the Regional Counter-Terrorism Structure Executive Committee of the Shanghai Cooperation Organization, Tashkent, 17 June 2004.

[2] http://www.unhchr.ch/huricane/huricane.nsf/NewsRoom?OpenFrameSet.

[3] Human Rights Committee, general comment No. 29 (CCPR/C/21/Rev.1/Add.11), para. 14.

[4] E/CN.4/2004/91, para. 20.

[5] CCPR/CO/81/BEL (Belgium); CCPR/CO/80/UGA (Uganda).

[6] CCPR/CO/80/DEU (Germany).

[7] CCPR/CO/80/LTU (Lithuania).

[8] CCPR/CO/80/COL (Colombia).

[9] CAT/C/CR/32/4 (New Zealand); CAT/C/CR/31/1 (Colombia); CAT/C/CR/31/2 (Morocco); CAT/C/CR/31/4 (Yemen).

[10] CERD/C/65/CO/3 (Kazakhstan); CERD/C/64/CO/8 (Sweden).

[11] CRC/C/15/Add.228 (India).

[12] For example, the Biennial Conference of the International Commission of Jurists, "Human Rights and Counter-Terrorism: Challenges and Responses", Berlin, 27-29 August 2004.

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Programme budget for the biennium 2004-2005

Administrative arrangements for the International Trade Centre

Report of the Secretary-General*

Summary

In its decision 57/572, the General Assembly took note of the report of the Secretary-General on the experience in applying the revised administrative arrangements approved by the General Assembly for the International Trade Centre of the United Nations Conference on Trade and Development (UNCTAD)/World Trade Organization (WTO) in its decision 53/411 B and endorsed the recommendation that the secretariats of the two parent organizations submit joint proposals to their respective legislative bodies on ways to streamline the number of budget documents produced and to simplify the budgetary approval process for the Centre to the maximum extent possible.

The present report has been prepared in consultation with the secretariats of WTO and the Centre. It contains a series of recommendations designed to simplify the revised administrative arrangements while adapting them to recent major changes in the budgetary processes of both parent organizations and to clarify some procedures. In addition, the report aims to consolidate information on the administrative arrangements to facilitate the review of the arrangements by the governing bodies of both parent organizations and their application by the administration of the three organizations concerned.

The report is being submitted simultaneously to WTO.

* The delayed submission of the present report is attributed to the consultations required with ITC and WTO to finalize the report.

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I. Introduction

1. The International Trade Centre (ITC), a joint body of the United Nations Conference on Trade and Development (UNCTAD) and the World Trade Organization (WTO), operates, from an administrative point of view, on the basis of arrangements agreed upon in 1974 between the United Nations and the General Agreement on Tariffs and Trade (GATT) and reviewed in 1998 and 1999. These unique arrangements have proven to be very effective from a programme point of view to ensure coherence in and avoidance of duplications in the activities of the three organizations, as also confirmed by the review of technical cooperation activities, conducted within the framework of the reform of the United Nations (see A/58/382), and the inspection of programme management and administrative practices of the International Trade Centre UNCTAD/WTO (see A/59/229).

2. However, WTO and the United Nations have different budgetary processes and the revised administrative arrangements, which were approved in 1999, did not succeed in completely addressing the unique situation of ITC within the overall budget procedures of each parent. Although there had been a general understanding that the revised administrative arrangements would avoid duplication of processes, this did not materialize fully. Instead, the arrangements resulted in a de facto duplication of some procedures and even in the creation of additional steps. This situation was documented in the report of the Secretary-General on the experience in applying the revised administrative arrangements approved by the General Assembly for the International Trade Centre UNCTAD/WTO in its decision 53/411 B. In its decision 57/572, the General Assembly endorsed the proposal to initiate consultations with ITC and WTO for a joint review of the arrangements.

3. Over the past year, changes have taken place in the budgeting process of both the United Nations and WTO, which provide a unique opportunity to streamline the current procedures while at the same time meeting the exigencies of programmatic decisions on the part of United Nations Member States and WTO members. The changes concern, in the case of the United Nations, the replacement of the four-year medium-term plan by a biennium-based strategic framework, and, in the case of WTO, the adoption of a biennium budget cycle (consisting of two consecutive financial periods covering each year of the biennium with consolidated accounting at the end of the biennium) which coincides with that of the United Nations, versus the annual budget cycle in force until the end of 2003.

II. Technical foundations for the existing administrative arrangements

4. The main foundations upon which the current administrative arrangements are based are the following (see A/53/7/Add.3, paras. 5 and 11):

(a) ITC is subject to the Financial Regulations and Rules and the Staff Regulations and Staff Rules of the United Nations;

(b) The budget of ITC is calculated in Swiss francs;

(c) ITC is subject to the oversight system of the United Nations (Office of Internal Oversight Services (OIOS) and Board of Auditors);

(d) The accounts of ITC, submitted in United States dollars, are reviewed and audited by the United Nations Board of Auditors;

(e) Reports of the United Nations oversight bodies and financial statements, certified by the Controller of the United Nations, are provided to the General Assembly and the General Council of WTO;

(f) The regular budget of ITC is financed in equal parts by the United Nations and the World Trade Organization;

(g) Budgetary information is provided simultaneously to the governing bodies of both parent organizations.

5. The operations of ITC have been fully adapted to such conditions and operate well to the satisfaction of all parties concerned. As a consequence there seems to be no need to revise them.

Recommendation 1

The arrangements concerning the facts that the regular budget of ITC is financed in equal parts by the United Nations and WTO, that the United Nations staff and financial rules and oversight mechanisms apply to ITC, that the ITC budget is calculated in Swiss francs, that both parent organizations are provided with the same information at the same time, and that oversight and financial reports are provided to WTO, are confirmed.

III. ITC budget outline

6. The main mechanism that had been envisaged in the revised administrative arrangements to facilitate the preparation of the ITC budget, i.e., the submission of a budget outline in the spring of the year preceding the next financial period, did not lead to the expected results.

7. The budget outline was introduced in order to respond both to the concerns of WTO that the control function on ITC budgetary procedures should be restored and assumed by WTO (see WT/BFA/2 L 7626, para. 1; see also A/C.5/52/45, attachment III) and retain the role of the United Nations in the financial administration of ITC. Due to the requirement for the United Nations to present a consolidated budget for the United Nations Secretariat in the spring of the year preceding the United Nations financial period while the consolidated budget of WTO is being presented only in the fall, the budget outline was conceived as a mechanism to reflect the agreement of both parent organizations on a proposed budget level for ITC for the coming biennium. It was agreed that the budget outline would present the requirements for the first year of the coming biennium, with a projection of the requirements for the second year. All amounts would be calculated in Swiss francs. At the same time, an initial fascicle of the United Nations proposed programme budget based on that outline would be presented to the General Assembly in United Sates dollars as part of the overall submission of the proposed programme budget, using the same rate of exchange as used for the proposed programme budget as a whole. For the bienniums 2002-2003 and 2004-2005, both the simplified fascicle and the ITC outline were prepared on the basis of the United Nations programme budget outline, as reviewed and approved by the General Assembly in accordance with resolution 41/213.

8. The governing bodies of both parent organizations were expected to approve the level of the outline for the following biennium (see A/53/7/Add.3, paras. 11 (a) and 11 (b)). The level of resources requested by ITC in its proposed budget, submitted in the fall as a full fascicle, would then have been prepared on that basis.

9. As documented in the annex to the present report, this process resulted in the preparation of four separate documents (one outline and one simplified fascicle for the United Nations, and two outlines for WTO), reviewed five times by either WTO (two reviews by the WTO Committee on Budget, Finance and Administration (CBFA)) or the United Nations (one review by the Advisory Committee on Administrative and Budgetary Questions (ACABQ), one review by the Committee for Programme and Coordination (CPC) and one review by the General Assembly). The legislative bodies, however, did not take any decision on the proposed level of resources required by ITC. They simply took note of the planned level of resources to be requested by ITC, postponing any decision to the fall, when the full ITC budget fascicle would be received and reviewed together with the overall budget of both organizations (see General Assembly decisions 55/483 and 57/312 and WTO General Council decisions WT/GC/M/72, 77 and 84). Contrary to what was foreseen in the revised administrative arrangements, the submission of the outline did not lead to any decision but simply added workload to the ITC, WTO and United Nations administrations and to the legislative bodies of both organizations.

10. In order to reflect the will of the governing bodies of both organizations to maintain their control and authority in respect of their share of resources assigned to ITC, as well as to comply with the need of a comprehensive budget submission for the United Nations Secretariat, the following is proposed:

(a) The preparation of the outline will be discontinued;

(b) Taking into account the programmatic direction provided by the Joint Advisory Group (JAG), the governing body of ITC, the United Nations General Assembly and the WTO General Council, and the United Nations approved programme budget outline, and after consultations between the United Nations, WTO and ITC secretariats, a proposal in the form of a simplified fascicle, in the United Nations format, indicating the agreed level of resources, will be submitted in the spring of the year preceding the forthcoming financial period for information to the United Nations General Assembly and WTO General Council, with a request that both bodies take note of the planned level of resources that will be requested, as has occurred de facto for the past two bienniums;

(c) A full proposal in the form of a detailed fascicle would be submitted to the United Nations General Assembly and the WTO General Council for decision in the fall in order to ensure that both parent organizations be provided with the same information at the same time.

Recommendation 2

ITC will no longer be required to submit a budget outline as foreseen in the current administrative arrangements. A simplified fascicle will instead be submitted to both the United Nations General Assembly and the WTO General Council, for those bodies to take note of, with a full proposal to be submitted for decision by both bodies in the fall.

IV. United Nations strategic framework

11. In accordance with General Assembly resolution 58/269, the United Nations four-year medium-term plan has been replaced by the strategic framework, starting with the biennium 2006-2007. In accordance with paragraph 9 of General Assembly resolution 58/269, the strategic framework, as approved by CPC, will become an integral part of the 2006-2007 budget submission. In the case of WTO, such a programmatic document is not required.

12. As it did in 2004, ITC would submit its strategic framework to JAG in the spring of the first year of a financial period. JAG would provide guidance to ITC on the proposed strategic framework. The report of JAG, with the strategic framework amended, as required, to incorporate its recommendations, would be submitted to CPC. The same report and revised strategic framework would be submitted also to the WTO General Council through the WTO Committee on Trade and Development and to the UNCTAD Trade and Development Board.

Recommendation 3

The ITC strategic framework for the forthcoming biennium, in the United Nations format, will be submitted to and reviewed by JAG in the spring of the first year of a financial period. The strategic framework, amended based on comments from JAG, as required, will be submitted to CPC. The JAG report will be submitted for review and comments to the UNCTAD Trade and Development Board and to the WTO Committee on Trade and Development. The CPC-approved version of the strategic framework will be sent to WTO for information.

V. Presentation of budget fascicles

13. An issue outlined by the Board of Auditors and OIOS relates to the fact that for the past three budget formulation processes, ITC had to prepare two budget fascicles, containing the same financial and substantive information, in different formats thus duplicating its workload (see A/57/5 (vol. III), paras. 21-23; A/59/5 (vol. III), paras. 51 and 52; and A/59/229, para. 5).

14. The simplest solution to address this issue would be the submission to both organizations of the same budget fascicle in only one format, either WTO or the United Nations.

15. Alternatively, ITC could submit to WTO and the United Nations a fascicle in the WTO format, containing as an annex the programmatic part in the United Nations format. Since ITC is subject to the United Nations Financial Rules and Regulations and to the United Nations oversight bodies, the programmatic part (strategic framework, outputs and external factors) has to be presented in the United Nations format for the performance evaluation of ITC to both parent organizations.

16. Another option would be for ITC to submit to WTO and the United Nations a fascicle in the United Nations format, containing in the case of WTO, as an annex, the programmatic part in the WTO format.

17. After extensive review of these alternatives by the three secretariats, it was concluded that each one of them presented major shortcomings and would have

likely lead to the request, during the review process, by the legislative bodies to submit additional information, thus eliminating any marginal reduction in workload the new procedure would have achieved.

18. As a consequence, in view of the differing requirements needed by the review bodies of both the United Nations and WTO, it was concluded that ITC would need to continue to prepare two budget fascicles with the same financial and substantive information in different formats. It will also endeavour to harmonize the two documents, where possible, through consultations with the United Nations and WTO secretariats, to reduce the additional workload to the maximum extent possible.

Recommendation 4

ITC should continue to prepare two budget fascicles with the same financial and substantive information in different formats, and should endeavour to harmonize the two documents in consultation with the United Nations and WTO secretariats.

VI. Conclusions and main recommendation

19. **The General Assembly is requested to take note of the present report and to endorse the recommendations contained herein.**

Annex

Detailed timeline of the current and proposed simplified procedures for the review of the ITC proposed budget by the United Nations and the World Trade Organization

		Current procedure	*Proposed procedure*
YEAR 1	Spring	Submission of strategic framework to the ITC Joint Advisory Group (JAG)	Submission of strategic framework to the ITC Joint Advisory Group
	April	Review by JAG of strategic framework	Review by JAG of strategic framework
	June	Review by Committee for Programme and Coordination (CPC) of ITC strategic framework, with JAG comments	Review by CPC of ITC strategic framework with JAG comments
		Review by WTO Committee on Trade and Development (CTD) of JAG report, including comments on strategic framework	Review by CTD of JAG report, including comments on strategic framework
		Review by UNCTAD Trade and Development Board of JAG report, including comments on strategic framework	Review by UNCTAD Trade and Development Board of JAG report, including comments on strategic framework
		Review by WTO General Council of CTD report	Review by WTO General Council of CTD report
	November	Review by United Nations General Assembly of CPC report	Review by United Nations General Assembly of CPC report
YEAR 2	January	Submission by ITC to WTO of draft budget outline	
		Review of ITC draft budget outline by WTO Committee on Budget, Finance and Administration (CBFA)	
	February	Submission of United Nations budget outline and United Nations simplified budget fascicle	Submission of simplified budget fascicle taking into account programmatic direction provided by JAG, United Nations General Assembly and WTO General Council
		Submission by ITC of WTO budget outline	
	May	Review of United Nations budget outline by Advisory Committee on Administrative and Budgetary Questions (ACABQ)	Review of simplified budget fascicle by ACABQ

	Current procedure	*Proposed procedure*
	Review of WTO budget outline by WTO/CBFA	WTO/CBFA takes note of United Nations simplified fascicle and transmittal note from ITC
June	Review of ACABQ report by United Nations General Assembly	Review of ACABQ report by United Nations General Assembly
	Review of CBFA report by WTO General Council	WTO General Council takes note of CBFA report
September	Submission by ITC to United Nations General Assembly and WTO General Council of its proposed biennium budget for the following biennium	Submission by ITC to United Nations General Assembly and WTO General Council of its proposed biennium budget for the following biennium
October	Review of ITC proposed budget by ACABQ	Review of ITC proposed budget by ACABQ
	Review of ITC proposed budget by WTO/CBFA	Review of ITC proposed budget by WTO/CBFA
November-December	Review of ITC proposed budget and of ACABQ report by United Nations General Assembly and approval of budget for the following biennium	Review of ITC proposed budget and of ACABQ report by United Nations General Assembly and approval of budget for the following biennium
	Review of recommendations of CBFA by WTO General Council and approval of budget for following biennium	Review of recommendations of CBFA by WTO General Council for following biennium

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Fifty-ninth session
Agenda item 9
General debate

Letter dated 30 September 2004 from the Permanent Representative of the United Kingdom of Great Britain and Northern Ireland to the United Nations addressed to the President of the General Assembly

I have the honour to enclose herewith the text of the written statement of the delegation of the United Kingdom in exercise of the right of reply to the remarks made by Néstor Carlos Kirchner, President of the Argentine Republic, on 21 September 2004 in the General Assembly (see annex).

I should be most grateful if you could arrange to have the text of the present letter and its annex circulated as a document of the General Assembly under agenda item 9.

(*Signed*) Emyr **Jones Parry**

04-53347 (E) 071004

Annex to the letter dated 30 September 2004 from the Permanent Representative of the United Kingdom of Great Britain and Northern Ireland to the United Nations addressed to the President of the General Assembly

Statement of the delegation of the United Kingdom of Great Britain and Northern Ireland in exercise of the right of reply to the remarks made by the President of the Argentine Republic in the general debate on 21 September 2004

The British Government attaches great importance to the principle of self-determination, as set out in Article 1.2 of the Charter of the United Nations and article 1 of the International Covenant on Civil and Political Rights. That principle underlies our position on the Falkland Islands.

The elected representatives of the Falkland Islands once again expressed their own views clearly when they visited the United Nations for this year's debate in the Committee of 24. They asked the Committee to recognize that they, like any other people, were entitled to exercise the right of self-determination. They reiterated that the people of the Falkland Islands did not wish for any change in the status of the islands.

There can be no negotiations on the sovereignty of the Falkland Islands unless and until such time as the Islanders so wish.

The United Kingdom has no doubts about its sovereignty over the Falkland Islands.

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Letter dated 30 September 2004 from the Permanent Representative of the United Kingdom of Great Britain and Northern Ireland to the United Nations addressed to the President of the General Assembly

I have the honour to enclose herewith the text of the written statement of the delegation of the United Kingdom in exercise of the right of reply to the remarks made by Jaya Krishna Cuttaree, Foreign Minister of Mauritius, on 28 September 2004 in the General Assembly (see annex).

I should be most grateful if you could arrange to have the text of the present letter and its annex circulated as a document of the General Assembly under agenda item 9.

(*Signed*) Emyr **Jones Parry**

04-53353 (E) 081004

Annex to the letter dated 30 September 2004 from the Permanent Representative of the United Kingdom of Great Britain and Northern Ireland to the United Nations addressed to the President of the General Assembly

Statement of the delegation of the United Kingdom of Great Britain and Northern Ireland in exercise of the right of reply to the remarks made by the Foreign Minister of Mauritius in the general debate on 28 September 2004

The British Government maintains that the British Indian Ocean Territory is British and has been since 1814. It does not recognize the sovereignty claim of the Mauritian Government.

However, the British Government has recognized Mauritius as the only State which has a right to assert a claim of sovereignty when the United Kingdom relinquishes its own sovereignty.

Successive British Governments have given undertakings to the Government of Mauritius that the Territory will be ceded when no longer required for defence purposes.

The British Government remains open to discussions regarding arrangements governing the British Indian Ocean Territory or the future of the Territory. The British Government has stated that when the time comes for the Territory to be ceded it will liaise closely with the Government of Mauritius.

The British Government values its close and constructive cooperation with the Government of Mauritius on a wide range of issues and looks forward to this continuing.